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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

RUTTEN, JAMES D

ART UNIT	PAPER NUMBER
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2192

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/825,081

Applicant(s)

RICH ET AL.

Examiner

J. Derek Rutten

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/13/2006 has been entered. Claims 1 and 2 have been canceled and new claims 3-5 have been entered. Claims 3-5 are currently pending and have been examined.

### ***Response to Arguments/Amendments***

2. The cancellations of claims 1 and 2 have obviated prior drawing objections and claim rejections. All prior objections and rejections are withdrawn.

3. In response to applicant's argument (see page 4 of the response) that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "deferred copying") are not recited in the rejected claims. The claims are simply directed to "copying", which is addressed in the rejections below. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Thus, this argument is not persuasive.

***Drawings***

4. Figures 3 and 4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. A description of Figure 3 on page 15 line 20 – page 16 line 1 of the originally filed specification suggest that the invention “may” be practiced using the workstation in the drawing. This suggests that the drawing in Figure 3 does not represent the invention, and that it represents a prior art workstation. Likewise, the description of Figure 4 on page 17 lines 1 and 2 suggest that this figure represents a prior art network. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

5. The disclosure is objected to because of the following informalities: Page 19 line 12 of the originally filed specification contains the phrase “retrieves and ordered” which should be --retrieves an ordered--.

Appropriate correction is required.

6. The disclosure is objected to because of the following informalities: The “Brief Description of the Drawings” section appearing on page 9 of the originally filed specification does not contain a description for Figure 5 as required by 37 CFR 1.74. See MPEP 608.01(f).

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Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 3-5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

New claim 3 recites in lines 9 and 10:

upon the execution of a save function, copying said one or more files in said file set, storing them in said virtual archive, and returning said virtual archive to said user.

These limitations in claim 3 are representative of similar limitations appearing in claims 4 and 5.

Applicant has pointed to page 15 lines 15-17 of the specification as well as Figures 1 and 2 as support for these limitations. Page 15 lines 15-17 recites:

In an alternative preferred embodiment, "File" objects can be added to, removed from, and copied between "Archives", and the execution of the task of copying the contents is deferred until a save function is invoked.

While this passage provides clear support for copying files upon the invocation of a save function, there is no description of saving them in a virtual archive before returning the virtual archive to a user. Also, neither Figure 1 nor Figure 2 suggests storing in a virtual archive before returning the virtual archive to a user. The term "saving" typically implies some type of archival storage as opposed to updating data in memory or a virtual archive. As such, the limitations do not appear to be sufficiently described in the originally filed specification.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by prior art of record US 5,907,703 A to Kronenberg et al. (hereinafter “Kronenberg”).

In regard to claim 3, Kronenberg discloses:

*A method for returning files to a client of an enterprise application (column 7 line*

*34 – column 8 line 25), comprising the steps of:*

*requesting the loading of a file set comprising a list of one or more files each*

*stored under a predetermined path and filename in said list; See column 2 lines 33-40:*

Turning next to FIGS. 3, 4, and 5 a preferred embodiment of a device driver program embodying the present invention begins by receiving a file system request from the operating system at step 301. The file system request contains information indicating the type of request to be performed, the identity of the file on which the operation is to be performed, and any other information needed to perform a successful operation.

*determining if the files in the requested file set are in an archive format, or a*

*directory tree format; See column 2 lines 45-49:*

At step 302, the driver determines if the file system request is a request to enumerate the contents of a folder. If the answer at step 302 is affirmative, then at step 303, the driver checks to see if the enumeration points to an archive file.

*creating a loading strategy based on said determination; See column 2 lines 55-*

*57:*

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If the answer to step 303 is affirmative, then at step 304 the device driver creates, in RAM a virtual folder that represents the archive file.

*creating a virtual archive using the loading strategy; See column 3 lines 42-44:*

If the directory has not been loaded, then at step 402 the driver loads the central directory structure.

*upon the execution of a save function, copying said one or more files in said file set, storing them in said virtual archive, and returning said virtual archive to said user.*

See column 4 lines 50-54:

then at step 509 the driver determines whether the operation is a write operation. If the answer is affirmative, then at step 514, the driver determines whether the file has been decompressed. If it has, at step 519 **the driver copies the write data to memory.**

Also see column 5 lines 22-24:

The user can perform **operations on the file** directly without having to first explicitly compress and/or decompress data.

The use of the plural “operations” in the quote above implies that after the write operation (i.e. “save function”) is performed, other operations be performed. This inherently requires that the virtual archive is returned to said user, otherwise archive presented would be inconsistent with the archive in memory and the system would fail.

In regard to claim 4, Kronenberg discloses a system (column 7 lines 3-33). All further limitations have been addressed and/or set forth in the above rejection of claim 1.

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kronenberg in view of prior art of record US 6286051 B1 to Becker et al. (hereinafter "Becker").

In regard to claim 5, Kronenberg does not expressly disclose a computer program product. All further limitations have been addressed and/or set forth in the above rejection of claim 1. However, Becker teaches using a computer program product. See Fig. 4 elements 76 and 78 and column 6 lines 15-56. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Becker's computer program product with Kronenberg's program product in order to load the program for use in a workstation as suggested by Becker (column 4 lines 18-34).

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Derek Rutten whose telephone number is (571) 272-3703. The examiner can normally be reached on T-F 6:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jdr



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SUPERVISORY PATENT EXAMINER